

Clips used with John McCafferty

September 20, 2006  
JURY TRIAL - DAY SEVEN

PG. 142 (McCafferty 11/03 @ PG. 56)

07 Q. Have you ever experienced a situation  
08 where you felt that another district manager was  
09 delaying getting back to you regarding the sales  
10 assistance that was being offered on a deal?  
11 A. If I felt that, I would have called  
12 them.  
13 Q. Well, I'm asking you whether you felt  
14 it?  
15 A. Sure.  
16 Q. And that is not unusual, is it?  
17 A. I don't -- no, I don't think it's a  
18 working thing, no.  
19 Q. But it does happen from time to time?  
20 A. Yes, sir.

PG. 143 (McCafferty 11/03 @ PG. 56)

21 Q. Have you ever experienced a situation  
22 where a district manager set up, ran the request  
23 for sales assistance, ran another request for  
24 sales assistance through under a different name  
00057:01 for the company in order to get around the system?  
02 A. Have I ever found out -- a district  
03 manager?  
04 Q. Well, anyone?  
05 A. District managers can't run sales  
06 assistance. The dealer can only file for sales  
07 assistance.  
08 Q. Well, have you ever found that  
09 dealers do that?  
10 A. Yes.

PG. 146 (McCafferty 11/03 @ PG. 43)

04 Q. If you receive a call from another  
05 district manager, and he says I have a dealer  
06 that's interested in selling to a company in your  
07 territory, and he tells you the name of that  
08 customer, potential customer, do you then notify  
09 the dealer in your territory of that contact?  
10 A. On occasion.  
11 Q. Well, do you have a standard  
12 procedure that you follow on that?  
13 A. If it's a known account by that  
14 dealer, yes.  
15 Q. What if it's -- and what do you mean  
16 by a known account?  
17 A. If the AOR dealer deals with that  
18 account.  
19 Q. Well, how would you know that, sir?  
20 A. Through sales assistance, meeting the  
21 customer, past history.  
22 Q. What if it is a customer you believe  
23 to be a totally new customer?  
24 A. Then most of the times, I wouldn't.  
00044:01 Q. Why not?

02 A. Because the other dealers worked to  
03 go after that customer.

04 Q. Do you think it's fair that you call  
05 him up in that situation? Do you think it would  
06 be fair for you to call him up in that situation?

07 A. It all depends on the customer, I  
08 guess.

09 MR. ROSSMAN: This is if it's a totally new  
10 customer in his district, in AOR?

11 MR. MACK: Yes, sir.

12 MR. ROSSMAN: And the question is does he  
13 think -- do you think it's fair to tell your  
14 dealer that this other dealer is interested in  
15 that customer?

16 BY THE WITNESS:

17 A. The only question I would have on  
18 that is I made contact with the dealers and do you  
19 have anything working, because I don't know all  
20 the deals all dealers are working, do you have any  
21 working knowledge of a deal or a customer, nothing  
22 specific.

23 BY MR. MACK:

24 Q. It's fair to say, Mr. McCafferty,  
00045:01 that's pretty standard operating procedure, isn't  
02 it?

03 A. I think so.

04 Q. So, one way or the other, the dealer  
05 would find out about it?

06 A. No, I wouldn't say that, not always,  
07 because we don't always call.

08 Q. But generally, you do?

09 A. Most times.

PG. 148 (McCafferty 11/03 @ PG. 45)

08 Q. But generally, you do?

09 A. Most times.

PG. 153 (McCafferty 11/03 @ PG. 68)

02 Q. Is this reference to dealers as  
03 sleezing around consistent, as you understand it,  
04 with Mack's policies and procedures?

05 A. No, sir.

06 Q. It's not?

07 A. No, sir.

PG. 160 (Yelles 11/03 @ PG. 118)

15 Q. What about Prairie Materials, are  
16 you familiar with whether they have requested  
17 that their discount be released only with prior  
18 written approval?

19 A. I am not sure on Prairie. I am not  
20 sure.

PG. 161 (McCafferty 11/03 @ PG. 100)

15 Q. What is the advantage to a dealer of  
16 having net net billing?

17 A. If a dealer knows how to handle his  
18 money and work his money, he can make use of that.

PG. 167 (McCafferty 11/03 @ PG. 133)

04 Q. That Macungie program you told us  
05 that was something that was special for these  
06 guys; right?

07 A. The Macungie program, it was  
08 excessive inventory they had. I don't recall the  
09 details to it, but we ended up coming out with a  
10 program. That was the preprogram, but the program  
11 came out soon after.

12 Q. This is the preprogram for these  
13 dealers, not other dealers; right?

14 A. That is correct.

PG. 168 (McCafferty 11/03 @ PG. 132)

09 Q. The net billing was not something  
10 that was available to all the dealers; right?

11 A. No.

PG. 169 (McCafferty 11/03 @ PG. 132)

13 Q. Well, how about percentages that they  
14 were requesting on the CX13s?

15 A. That was Vision Express.

16 Q. 24 percent was available to all the  
17 dealers?

18 A. No. On those two, no.

PG. 174 (McCafferty 11/03 @ PG. 163)

13 Q. And this was outside the -- the  
14 pricing matrix on Model CS's, CL's, RB's, RD's and  
15 DM's were different from the standard pricing  
16 matrix; right?

17 A. That's correct.

PG. 176 (McCafferty 11/03 @ PG. 164)

03 Q. And this is pretty unusual; right?

04 A. Yeah. I wouldn't write the letter.

PG. 177 (McCafferty 11/03 @ PG. 188)

18 Q. Isn't it true, sir, that Mack Trucks  
19 didn't want other dealers knowing that it was  
20 paying the floor plan on all these trucks for  
21 Chicago Mack and Shelby Howard?

22 MR. ROSSMAN: Object to the form of the  
23 question.

24 MR. MACK: You can answer.

00189:01 BY THE WITNESS:

02 A. Yes, I believe so.

03 BY MR. MACK:

04 Q. They didn't want -- this was a bit of  
05 a secret; right?

06 A. I don't know how big of a secret it  
07 was or wasn't.

08 Q. Well, did you ever tell anyone about  
09 it?

10 A. No, I don't think I did.

11 Free floor plan trucks in group  
12 and buying of all those trucks, they are out of

13 stock, a lot of people knew that everyone was  
14 taking stock trucks, if that's your question. As  
15 far the discount and matrix, no.

PG. 182 (McCafferty 11/03 @ PG. 112)

08 Generally if a customer wants a  
09 BPP, the customer has to pay for that; right?  
10 A. Yes.

PG. 183 (McCafferty 11/03 @ PG. 112)

11 Q. Are you aware, sir, of any instances  
12 in which Mack Trucks has paid the BPP for a dealer  
13 making a sale to a customer?

14 A. Yes.

15 Q. Has that happened, sir, for Chicago  
16 Mack?

17 A. Yes.

PG. 184 (McCafferty 11/03 @ PG. 122)

07 Q. Have you ever heard that Mack  
08 subsidized wages for Chicago Mack employees?

09 A. Yes.

10 Q. Tell me about that?

11 A. Mark Lucas I believe was handling  
12 waste Management and worked for Ken, and then he  
13 had been the Mack employee and then he went back  
14 to Mack to work in national accounts, but for a  
15 short stint he was a Chicago Mack employee when  
16 Ken purchased the store.

17 The other one would be they had  
18 a midliner rep that Mack paid a portion of his  
19 salary for a six month period -- I don't know the  
20 exact period of time.